“Who Am I and Why Am I Here?”
An Orientation to your Role as an Advisor in the Title IX Sexual Harassment Grievance Process
No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance.
Title IX’s purpose

Prohibitions or Limitations on Participation Based on Sex

Inequitable Support for Men’s and Women’s Athletics

Pregnancy Discrimination

Sexual Harassment
- Sexual Assault
- Stalking
- Domestic/Dating Violence
- Verbal/expressive
First-year athlete abused in locker room by older teammates

Male on Male Sexual Assault

Honors student raped in residence hall by roommate’s friend

Male on Female Sexual Assault

Work study student hounded by hundreds of texts and phone calls

Female on Male Sexual Harassment

Biology major slapped and threatened by date during walk across quad

Female on Female Dating Violence

Title IX Prohibits Sexual Harassment Regardless
All Sexual Harassment

Title IX Sexual Harassment
  - Title IX Grievance Process

Other Sexual Harassment
  - Title IX-like Grievance Process
  - Student Conduct or HR
The Parties

The **Complainant** is the alleged victim of Sexual Harassment

The **Respondent** is the alleged perpetrator of Sexual Harassment
Why have advisors?

Acknowledging that sexual harassment allegations present adversarial circumstances and that parties may benefit from guidance, advice, and assistance in such a setting, the Department [of Education] requires [schools] to allow the parties to select advisors of choice to assist each party throughout the grievance process.

85 Federal Regulations 30297
Anyone can be an advisor
Advisors play a background role

- You won’t be interviewed
- You won’t testify at the hearing
- Your speaking role is limited
- You don’t have to share your personal views
Advisors must follow the rules

- Schools can restrict advisor participation so long as the restrictions apply equally to both parties
- Conduct yourself professionally
  - Don’t disrupt meetings or other proceedings
  - Raise concerns courteously
  - Abide by instructions/decisions made by school officials
- Let your party speak for themselves
The Role of an Advisor is to Assist and Advise the Party*

* If you are an appointed advisor, your role may be more limited
Supportive Measures

Counseling • Extensions • Course Adjustment • Class Schedule • Work Schedule • Campus Escort • No Contact Orders • Leaves of Absence • Security

Protect safety

Preserve access

Deter harassment

Free & confidential

Complaint/no complaint

For both parties
The Title IX Grievance Process

1. Formal Complaint And Notice
2. Dismissal Analysis
3. Investigation
4. Hearing
5. Responsibility Determination
6. Appeal

Informal Resolution
Informal Resolution

- Both parties must agree to participate
- Either party may exit the process prior to agreeing to a resolution
- Any resolution is by mutual agreement
The Investigation

- The investigator collects evidence
- Each party may present evidence to the investigator
- Each party will have the opportunity to review and comment on all directly-related evidence
- The investigator creates a written report. At least ten days before the hearing, the report is given to each party (and their advisor)
Rules of Correspondence

Schools are required...

- To provide advisors with evidence to review
- To provide advisors with the investigative report

Schools are NOT required...

- To copy you on all correspondence they send to your party
The Investigative Interview

- Each party will have a chance to share their side of the story
- The interview is scheduled in advance
- The interview may address uncomfortable topics
- If you and your party need to confer, ask for a recess
Confidentiality: When to Keep it and When to Disclose

School employees: Maintain confidentiality. Do not disclose information except for legitimate educational purposes.

Special Circumstances
- Danger to self or others
- "Witness tampering"
- Knowingly providing false information
- Additional Sexual Harassment
The Hearing

• May be virtual or on campus

• The parties must be able to see and hear one another. If the hearing is virtual, cameras should be left on

• If the hearing is on campus, parties may request to be in different rooms with AV equipment

• You may not record the hearing, but you may review the school’s recording
Live Questioning at the Hearing

- Each party/witness who speaks at the hearing must be willing to answer questions posed by the other side.
- The questions always are posed by the advisors, never by the parties themselves.
- Questions may be barred if they are irrelevant, duplicative, or reference privileged information.
- Everyone is expected to behave in a professional manner.
- No abusive, intimidating, or disrespectful questioning.
Written Responsibility Determination

• Determination include:
  – Alleged policy violations
  – Rulings on responsibility
  – Any sanctions imposed
  – Appeal instructions

• Evidentiary standard is typically “preponderance of the evidence” but could be “clear and convincing evidence”

• Determination is provided to the parties simultaneously
Practical Tips

- Be flexible. Be timely. Raise scheduling conflicts as soon as you become aware of them.

- Familiarize yourself with the school’s policies and procedures.

- Go to the Title IX Coordinator with questions and concerns.
Thank you.
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